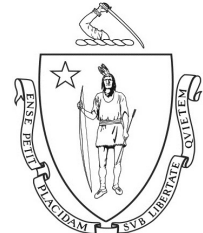




ROB BONTA  
ATTORNEY GENERAL

THE STATE OF CALIFORNIA  
OFFICE OF THE ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL



MAURA HEALEY  
ATTORNEY GENERAL

July 1, 2021

*Submitted via the Federal eRulemaking Portal*

The Honorable Miguel Cardona  
U.S. Department of Education  
400 Maryland Ave., SW  
Washington, D.C. 20202

Vanessa Gomez  
U.S. Department of Education  
400 Maryland Ave., SW, Room 2C179  
Washington, D.C. 20202

**Re: Docket ID ED-2021-OPE-0077**

Dear Secretary Cardona and Ms. Gomez:

We, the undersigned Attorneys General of California, Massachusetts, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Iowa, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Vermont, Virginia, Washington, and Wisconsin, submit the following written comments in response to the Department's May 26, 2021 announcement of its intention to establish a number of negotiated rulemaking committees tentatively addressing 14 topics for regulation. 86 Fed. Reg. 28,299.

We applaud the Department's intention to undertake a broad regulatory agenda to address the challenges facing student borrowers. We regularly investigate and prosecute predatory, for-profit schools that participate in Title IV federal student aid programs. These schools lure students into enrolling with promises of employment and higher earnings, only to be left with a mountain of unaffordable debt, a worthless diploma, and no better career prospects. As a result of these enforcement actions, we have seen time and again how the misconduct of for-profit

schools—combined with the failures of student loan servicers and the unnecessary complexities of the student loan system—have left student borrowers saddled with insurmountable debt.

We welcome the creation of meaningful regulations to correct these systemic abuses and share your goals of strengthening borrower protections, streamlining the process for defrauded borrowers to obtain relief, shutting down worthless programs that do not prepare students for gainful employment, and preventing taxpayer waste by holding schools accountable for their misconduct. While the Department’s regulatory agenda is necessarily extensive and detailed, we urge the Department to proceed as expeditiously as possible as it undertakes these critical regulatory reforms.

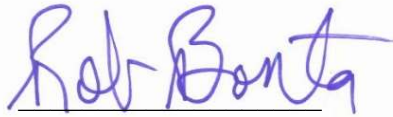
We further implore the Department to continue to include on all rulemaking committees a representative of the state attorneys general. State attorneys general provide an indispensable and unique law enforcement perspective for the Department’s policymaking. Representatives of state attorneys general have historically been invited to participate on the Department’s Title IV negotiated rulemaking committees since at least 2007. 72 Fed. Reg. 59,494 (TEACH Grants). Since then, we have been active members on all three of the Department’s Gainful Employment committees, 74 Fed. Reg. 46,399, 78 Fed. Reg. 35,179, 82 Fed. Reg. 41,194; the two most recent Borrower Defense committees, 80 Fed. Reg. 63,478, 82 Fed. Reg. 41,194; and committees/subcommittees related to state authorization of institutions offering distance education, 78 Fed. Reg. 69,612, 83 Fed. Reg. 51,906. The practice of seating state attorneys general has been continuous, even as administrations change.

This is for good reason. As a member of the “triad” of higher education regulators, we have substantial expertise holding postsecondary educational institutions and student loan servicers accountable for violations of state and federal law. We look forward to participating in the Department’s rulemaking and to providing this expertise in support of the Department’s efforts to protect borrowers and strengthen the student lending system. We also encourage the Department to include additional seats for state student loan ombudspersons and state higher education regulatory agencies, whose participation would give the Department the maximum benefit of the extensive work of the states in student lending and higher education.

Finally, although we are heartened by the breadth of topics identified by the Department, we encourage the Department to clarify that they include topics related to distance education and state authorization reciprocity agreements. In particular, in the waning days of the prior administration, the Department published final “Distance Education and Innovation” regulations, 85 Fed. Reg. 54,742, which include at least two provisions that relate to for-profit schools. Those regulations allow for-profit schools to outsource 100% of a program’s instruction to a school under common ownership, repealing a prior cap of 50%. Those regulations also grant schools—regardless of any record of misconduct—automatic Title IV recertification if their application is pending before the Department for 12 months or more. The prior administration also published a final rule concerning state authorization that could interfere with a state’s ability to enforce consumer-protection laws that protect students enrolled in out-of-state schools. 84 Fed. Reg. 58842. We urge the Department to clarify that these topics will be addressed in its broad regulatory agenda.

In conclusion, we are encouraged by the Department's comprehensive regulatory undertaking and look forward to working with the Department to achieve our shared goals.

Sincerely,



Rob Bonta  
California Attorney General



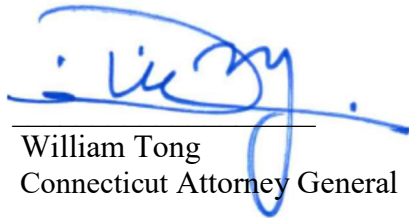
Maura Healey  
Massachusetts Attorney General



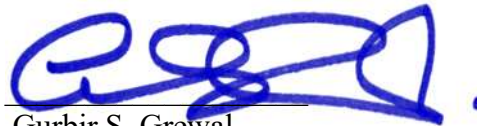
Phil Weiser  
Colorado Attorney General



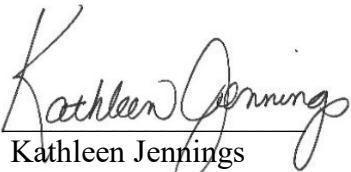
Aaron D. Ford  
Nevada Attorney General



William Tong  
Connecticut Attorney General



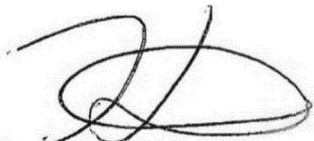
Gurbir S. Grewal  
New Jersey Attorney General



Kathleen Jennings  
Delaware Attorney General



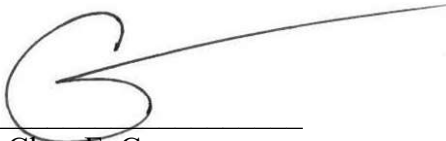
Hector Balderas  
New Mexico Attorney General



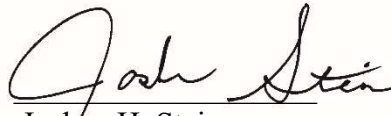
Karl A. Racine  
District of Columbia Attorney General



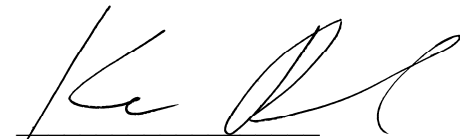
Letitia James  
New York Attorney General



Clare E. Connors  
Hawaii Attorney General



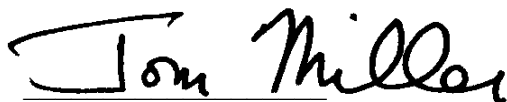
Joshua H. Stein  
North Carolina Attorney General



Kwame Raoul  
Illinois Attorney General



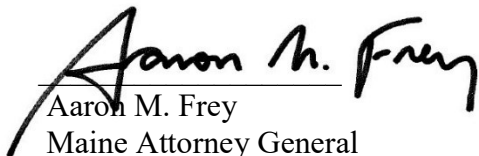
Ellen F. Rosenblum  
Oregon Attorney General



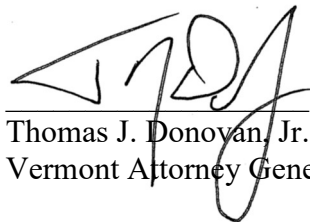
Thomas J. Miller  
Iowa Attorney General




Josh Shapiro  
Pennsylvania Attorney General



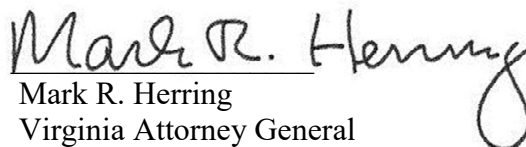
Aaron M. Frey  
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Thomas J. Donovan, Jr.  
Vermont Attorney General



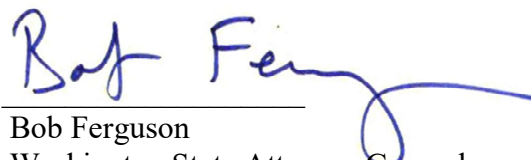
Brian Frosh  
Maryland Attorney General



Mark R. Herring  
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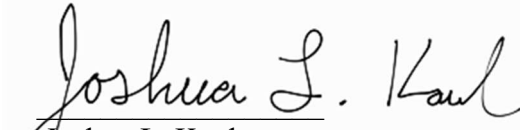
Dana Nessel  
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Bob Ferguson  
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Keith Ellison  
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Joshua L. Kaul  
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